

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

ORDER OF DETERMINATION
March 2, 2018

DATE ISSUED
December 19, 2018 (Revised)

CASE TITLE – William Clark v. Tom DeCaigny and the Arts Commission
(File No. 17009)

FACTS OF THE CASE

On February 17, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17009: Complaint filed by William Clark against Tom DeCaigny and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7, by failing to comply with regulations for policy bodies and post agendas for the Community Working Group of the Arts Commission.

HEARING ON THE COMPLAINT

On April 18, 2017, the Education, Outreach and Training Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

William Clark (Petitioner/Complainant) provided an overview of the complaint and requested the Committee to find violations. Mr. Clark stated the Community Work Group is a policy body created at the direction of the Arts Commission and should be open to the public. Kate Patterson and Ann Trickey, Arts Commission (Respondent), provided a summary of the department's position and provided a summary of the Community Working Group. Ms. Patterson and Ms. Trickey stated that the Working Group was initiated by Arts Commission staff to create a focus group which provides feedback to staff and not the Arts Commission and does not proposed policy. In addition, it was stated that participants were chosen based upon a survey circulated to Street Artist. Ms. Trickey stated that the meetings were not open to the public and compared the meetings to staff meetings. A question and answer period followed.

The Committee requested that the Arts Commission responded to the following question:

- Was there a call for volunteers to serve on the Community Working Group to all Street Artists and other potential members?
- Where there any volunteers for the Community Working Group who were not allowed to participate? If volunteers were not allowed to participate as part of the Community Working Group, provide an explanation as to why volunteers were excluded.

Member Fischer, seconded by Member Eldon, moved to refer the matter to the SOTF with the recommendation that the SOTF has jurisdiction and that there were no violations of Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7.

On June 7, 2017, the SOTF held a hearing to review the recommendation from Committee and to review the merits of the petition/complaint.

William Clark (Petitioner/Complainant) provided an overview of the complaint and requested that the SOTF find violations. Mr. Clark stated that the Community Working Group is a policy body as the Arts Commission approved the Work Plan which included a provision regarding the Community Working Group. Bob Clark, Mike Addario, Catheryn Callahan, and Ann Treboux spoke in support of the Petitioner. Kate Patterson and Rebekah Krell, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the Community Working Group is a focus group which provided their suggestions to a member of staff and not directly to the Arts Commission. Ms. Patterson stated that the Arts Commission did not specifically create the Community Working Group, but instead approved a working planning which suggests that staff organize a working group. Abbey Alice spoke in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

The SOTF opined that the Community Working Group appears to be a passive meeting body as the Arts Commission approved a working plan which authorized the creation of the Community Working Group.

On August 2, 2017, the SOTF granted a request for reconsideration of the Order of Determination.

William Clark (Petitioner) provided a summary of the new information submitted and requested that the SOTF reconsider their previous decision and Order of Determination. Ann Trickey provided a summary of the department's position and provided a summary of the Working Groups. A question and answer period followed.

On December 19, 2017, the SOTF held a hearing to review additional information regarding the complaint.

William Clark (Petitioner), provided a summary of the complaint and requested the SOTF to find violation. Mr. Clark presented additional documents and stated that the Working Group was a policy body. Kate Patterson, Arts Commission (Respondent), provide a summary of the department's position. Ms. Patterson stated that it is the position of the department that working group in question is not a policy body as the creation of the working group was left to the discretion of staff. A question and answer period followed.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Tom DeCaigny and the Arts Commission violated Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7.

ORDER OF DETERMINATION

Member Maass, seconded by Member Cannata, moved to substitute a motion to find that Tom DeCaigny and the Arts Commission violated Administrative Code (Sunshine Ordinance), Sections 67.5 and 67.7, by failing of a policy body to have open and public meetings and failing of a policy body to comply with agenda requirements.

The motion PASSED by the following vote:

Ayes: 7 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, B. Wolfe

Noes: 0 – None

Absent: 3 – Chopra, Tesfai, Hyland



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. William Clark (Petitioner/Complainant)
Tom DeCaigny, Arts Commission (Respondent)
Kate Patterson, Arts Commission (Respondent)